

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA *ex rel.*  
TERESA ROSS,

Plaintiff/Relator,

**DECISION AND ORDER**  
12-CV-299S

v.

GROUP HEALTH COOPERATIVE, INDEPENDENT  
HEALTH CORPORATION, DxID LLC, DR. JOHN  
HAUGHTON, and BETSY GAFFNEY,

Defendants.

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1. Presently before this Court is the government's "Notice That It Is Not Intervening At This Time," wherein it requests

- (1) that the relator's complaint not be dismissed, or the matter discontinued or settled, without the government's written consent, pursuant to 31 U.S.C. § 3730 (b)(1);
- (2) that the government continue to be served with all pleadings, orders, and notices of appeal, pursuant to 31 U.S.C. § 3730 (c)(3);
- (3) that the relator's complaint, the government's "Notice That It Is Not Intervening At This Time," and this Decision and Order, be unsealed and served on the defendants; and
- (4) that all other papers on file in this action remain under seal to protect the content and extent of the government's investigation of this matter.

2. Having reviewed the government's Notice, this Court will grant the first three requests identified above. The government's fourth request, however, is denied without

prejudice at this time. The government has offered no cause for the continued sealing of “all other papers on file in this action.” While documents revealing the government’s manner and extent of investigation may properly be sealed, see United States ex rel. O’Keefe v. McDonnell Douglas Corp., 902 F. Supp. 189, 191-192 (E.D. Mo. 1995), the government has not identified the specific docket entries that, in its view, contain such information. See, e.g., United States ex rel. Tiesinga v. Dianon Sys., Inc., No. 03:02CV1573, 2006 WL 2860606, at \*1-2 (D. Conn. Oct. 3, 2006) (requiring government to demonstrate particularized need for continued sealing); see also United States ex rel. Howard v. Lockheed Martin Corp., No. 1:99-CV-285, 2007 WL 1513999 (S.D. Ohio May 22, 2007) (similar).

3. Consequently, this Court will not issue the blanket sealing order the government requests. If the government wishes to keep certain documents under seal, it must file an appropriate motion identifying by docket number each document or docket entry it seeks to seal and the basis therefore. Any such motion must be filed by July 12, 2019. In the interim, the case will remain sealed.

IT HEREBY IS ORDERED, that the seal in this case is partially lifted for the limited purpose of allowing service of the relator’s complaint, the “Notice That It Is Not Intervening At This Time,” and this Decision and Order on the defendants.

FURTHER, that the relator must serve her complaint within 21 days from the entry date of this Decision and Order or seek to dismiss the complaint.

FURTHER, that the relator must serve the “Notice That It Is Not Intervening At This Time” and this Decision and Order on the defendants not later than 10 days after service of her complaint.

FURTHER, that the relator’s complaint shall not be dismissed, or the matter settled, without the government’s written consent, pursuant to 31 U.S.C. § 3730 (b)(1).

FURTHER, that the parties must serve the government with all pleadings, motions, and notices of appeal, as well as all orders of this Court, pursuant to 31 U.S.C. § 3730(c)(3).

FURTHER, that the government may order and secure without further order of this Court any deposition transcripts and is entitled to intervene in this action, for good cause, at any time.

FURTHER, that the government’s request that “all other papers on file in this action” remain under seal is DENIED without prejudice. The seal order, however, will remain in place through at least July 12, 2019, pending another motion by the government.

FURTHER, that the government is hereby granted leave to file its seal-related motion, if any, under seal.

FURTHER, that on July 12, 2019, or the date that the government's seal-related motion, if any, is resolved, the seal on this case will be lifted.

SO ORDERED.

Dated: June 27, 2019  
Buffalo, New York

/s/William M. Skretny  
WILLIAM M. SKRETNY  
United States District Judge